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Communications concerning the status of women

Report of the Secretary-General assessing the implications of the reforms of mechanisms in the human rights area (1503 procedure) for communications concerning the status of women

I. Introduction

1. This report is prepared pursuant to Economic and Social Council decision 2000/237 of 27 July 2000. By that resolution the Council approved the provisional agenda and documentation for the forty-fifth session of the Commission on the Status of Women, which was contained in the report of the Commission on its forty-fourth session. The documentation approved by the Council for the forty-fifth session included, under agenda item 5 (Communications concerning the status of women), a report of the Secretary-General "assessing the implications of reforms of mechanisms in the human rights area (1503 procedure) for communications concerning the status of women".[1]

2. The request for the preparation of the present report had its origin in a suggestion made by the Working Group on Communications of the Commission on the Status of Women at its forty-fourth session. The Working Group suggested that the Commission "request the Secretary-General to submit a report to its next session containing an overview of any reform measures which may be adopted by the Commission on Human Rights and the implications of these measures for the work of the Commission on the Status of Women under its communications procedure" and recommended the inclusion of an item in the agenda for the forty-fifth session of the Commission on the Status of Women to consider the issue.[2] The Commission took up the suggestion in its report.

3. The Chairperson of the Commission on the Status of Women wrote on 28 March 2000 to the Chairperson of the Commission on Human Rights, informing him of the request made by the Commission. On 7 April 2000 the Chairperson of the Commission on the Status of Women made a statement to the Commission on Human Rights referring to the report requested by the Commission on the Status of Women and the intention of that Commission to consider its own communications mechanisms in the light of developments in the Commission on Human Rights.

4. In a letter dated 24 October 2000, the Chairperson of the Commission on Human Rights replied to the earlier letter, enclosing a report prepared by the Office of the United Nations High Commissioner for Human Rights on the interaction between the confidential procedures of the two Commissions, and seeking comments or suggestions on that report from the Commission on the Status of

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Women. He requested that the discussions on that document be conducted in private meetings, since the document was confidential. The Bureau of the Commission on the Status for Women met on 11 and 14 December to review the report from the Commission on Human Rights and decided that until the Commission on the Status of Women, at its forty-fifth session, reviews both reports and decides on changes in its working methods, the current practice will be in effect.

Scope and content of the present report

5. While the preparation of the present report was prompted by concerns about the interaction of the confidential procedures of the two Commissions, it also provides an opportunity for an overall evaluation of the communications procedure of the Commission on the Status of Women, which was last reviewed in detail by the Commission in 1991.[3]

6. The present report is divided into the following sections:

(a) A brief review of the development of the confidential communications procedures of the Commission on the Status of Women and the Commission on Human Rights;

(b) A discussion of the operation of the two procedures and the relationship between them, and options for better coordination of the various procedures;

(c) Options for more fundamental reform of the existing communications procedure of the Commission on the Status of Women.

II. Brief history of the confidential communications procedures of the Commission on the Status of Women and the Commission on Human Rights

A. The communications procedure of the Commission on the Status of Women

7. The present communications procedure of the Commission on the Status of Women has its origins in the mandate conferred by the Economic and Social Council in resolution 76 (V) of 5 August 1947, as amended by the Council in resolution 304 I (XI) of 14 and 17 July 1950. That mandate was reaffirmed by the Council in resolution 1983/27 of 26 May 1983. In these resolutions the Secretary-General is required to prepare confidential and non-confidential lists of communications on the status of women for submission to the Commission. In its resolution 1992/19 of 30 July 1992 the Council also requested the Commission to consider, as appropriate, ways of making the existing procedure for receiving and considering communications, including the standard of the admissibility, more transparent and efficient, taking into account the report of the Secretary-General on examining mechanisms for communications on the status of women,[4] which was submitted to the Commission at its thirty-fifth session.

8. Since 1984, in accordance with Council resolution 1983/27, communications are first considered by a sessional Working Group composed of five members of the Commission representing geographical regions. The role of the Working Group is:

(a) To consider in closed meetings all communications (including the replies of Governments), with a view to bringing to the Commission's attention those "which appear to reveal a consistent pattern of reliably attested injustice and discriminatory practices against women";[5]

(b) To prepare a report "which will indicate the categories in which communications are most frequently submitted to the Commission".[6]

9. The Working Group thus reports to the Commission at each session and, following its consideration of the report, the Commission may make recommendations to the Council on action the Council may wish to take in relation to the "emerging trends and patterns of communications".[7] The Commission is not authorized to take any other action.

B. The 1503 procedure of the Commission on Human Rights

10. The confidential communications procedure of the Commission on Human Rights has historical roots similar to those of the procedure of the Commission on the Status of Women. On 5 August 1947 the Economic and Social Council adopted resolution 75 (V), which was subsequently amended by the Council in resolution

728 F (XXVIII) of 4 July 1959. In those resolutions the Council established for the Commission on Human Rights a communications procedure similar to that established for the Commission on the Status of Women. Under the procedure the Secretary-General was also requested to provide confidential and non-confidential lists of communications concerning human rights for submission to the Commission. Copies of communications were provided to the Governments concerned, and their replies were included in the materials submitted to the Commission.

11. The two procedures diverged from each other in the late 1960s, when the Council adopted resolutions 1235 (XLII) of 6 June 1967 and 1503 (XLVIII) of 27 May 1970. Resolution 1235 (XLII) empowered the Commission on Human Rights (and the Subcommission on Prevention of Discrimination and Protection of Minorities)[8] to examine information relevant to gross violations of human rights contained in the lists submitted pursuant to resolution 728 F (XXVIII) and, in appropriate cases, to "make a thorough study of **situations** which reveal a consistent pattern of violations of human rights ... and report, with recommendations thereon, to the Economic and Social Council" (emphasis added). That resolution forms the basis of the public debate on alleged violations of human rights in specific countries which now takes place at the annual sessions of the Commission on Human Rights and the Subcommission.

12. Resolution 1503 (XLVIII) introduced a new confidential procedure ("the 1503 procedure") for examining communications alleging violations of human rights. It involved the following steps:

(a) Examination of communications by a five-member working group of the Subcommission in order to decide whether particular communications should be referred to the plenary Subcommission;

(b) Consideration by the plenary Subcommission of communications referred to it by the working group, together with replies from Governments and other relevant information, to determine whether the Subcommission should refer to the Commission particular situations which "appear to reveal a consistent pattern of gross and reliably attested violations of human rights requiring consideration by the Commission";

(c) Examination by the Commission of any situation referred to it by the Subcommission in order to determine whether the situation required a thorough study by the Commission or whether it should be the subject of an investigation by an ad hoc committee to be appointed by the Commission.

13. The Commission on Human Rights further developed the 1503 procedure in 1974 by establishing the Working Group on Situations, which has met since 1975 just before each session of the Commission to examine situations referred to the Commission by the Subcommission.

C. The revised 1503 procedure

14. The 1503 procedure existed in the form described above until it was revised in 2000, following a review by the Commission on Human Rights of its mechanisms. The Commission decided to implement in full the report of its inter-sessional Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights.[9] That report had recommended a number of changes to the 1503 procedure.[10] By its resolution 2000/3, the Council approved the changes recommended by the Commission.

15. In most respects in resolution 2000/3 the Council codifies and clarifies the existing procedure and practice under the 1503 procedure. The major change to the 1503 procedure is that the Working Group on Communications of the Subcommission will now refer situations directly to the Working Group on Situations; the plenary Subcommission will no longer play any role in the scrutiny of communications. The role of the Working Group on Communications, under the revised procedure, is to examine communications and any governmental replies "with a view to bringing to the attention of the Working Group on Situations any particular situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms".[11] The Working Group of the Subcommission will now meet after the annual session of the Subcommission rather than before, as was previously the case.

16. Resolution 2000/3 provides that the Working Group on Situations will meet at least one month before the session of the Commission in order to examine the report and recommendations of the Working Group on Communications and determine whether or not to refer particular situations before it to

the Commission, and to examine the situations kept under review by the Commission. In the latter cases the Working Group is to place before the Commission a confidential report identifying the main issues of concern, accompanied by a draft resolution or decision recommending the action to be taken by the Commission.[12]

17. After discussing the situation with the country concerned at closed meetings, the Commission is to decide on the appropriate action to take. The action should be one of the following:

(a) To discontinue consideration of the matter when further consideration or action is not warranted;

(b) To keep the situation under review in the light of any further information received from the Government concerned and any further information which may reach the Commission under the 1503 procedure;

(c) To keep the situation under review and to appoint an independent expert;

(d) To discontinue consideration of the matter under the confidential procedure governed by Council resolution 1503 (XLVIII) in order to take up consideration of the same matter under the public procedure governed by Council resolution 1235 (XLII).[13]

18. It can thus be seen that the two procedures, though having a similar origin in parallel resolutions of the Economic and Social Council, have diverged markedly over the years. On the one hand, the procedure of the Commission on the Status of Women has remained one under which communications are viewed merely as sources of information for identification of trends and patterns in the violation of the human rights of women and as a basis for general recommendations and policy-making; the Commission is not empowered to focus on country situations as such or to conduct investigations or take any other country-specific measures. As a result, the admissibility criteria that apply to a communication under the 1503 procedure[14] do not apply in the case of a communication submitted to the Commission on the Status of Women.

19. On the other hand, the focus of the 1503 procedure is the identification of country situations in which there appear to be serious violations of human rights and the examination of those situations with a view to the adoption of measures that might alleviate the situations.

20. The procedures are still similar to each other in a number of ways. First, they are both confidential. Secondly, neither provides for the continuing participation of the author of a communication after the secretariat has acknowledged receipt of the communication and informed the author that the communication will be dealt with in accordance with the appropriate resolutions.

III. Operation of the two procedures and the relationship between them

21. This section sets out in some detail various aspects of the operation of the two confidential procedures which have given rise to some concern. After each issue of concern is identified and discussed, options for addressing it are set out.

A. Preparation of the lists of communications

22. The 1503 secretariat in UNCHR prepares summaries of communications received and processed under the 1503 procedure. The Office provides the summaries to members of the Working Group on Communications of the Subcommission every month and has for some time provided the Division for the Advancement of Women, Department of Economic and Social Affairs, United Nations Secretariat, with copies of the same monthly lists, at the request of the Division.

23. When it prepares the lists of communications on the status of women for submission to the Commission on the Status of Women, the Division for the Advancement of Women includes in those lists:

(a) Summaries of communications received directly by the Division that concern the status of women (together with any replies from Governments that have been received directly by the Division);

(b) A selection of communications from the monthly 1503 lists provided to the Division by the Office of the High Commissioner (together with any replies from Governments that have been received by the Office of the High Commissioner and forwarded to the Division).

24. The Division chooses from the monthly 1503 lists those communications that involve violations of the human rights of women. In some cases the Division will include the complete summary of the communication as it appears in the 1503 list; in other cases, it will edit the summary so as to include only those parts that refer specifically to women or to gender-specific violations (generally without indicating the extent of any editing). At the request of the Division, the Office of the High Commissioner now also sends the Division full copies of any 1503 communications that the Division wishes to include in the list for the Commission on the Status of Women.

25. Only summaries of the communications are provided to the Commission (although the full text of the communications can be consulted by members of the Commission). However, the full text of replies provided by Governments is included in the materials and is also translated by the Division.

Issue

26. Concern has been expressed that, where the summary of a 1503 communication is edited to eliminate material that may not deal expressly with the rights of women, this may distort the overall gist of the communication and may make it difficult to evaluate a governmental response that addresses all issues raised in the original communication.

Options

27. The following two options are proposed:

(a) The full summary of each 1503 communication that is chosen by the Division for the Advancement of Women could be included in the list provided to the Commission, with those parts which relate to violation of women's rights highlighted;

(b) The Division for the Advancement of Women could write separately to the Government concerned, requesting a reply on those matters that relate directly to the alleged violations of the human rights of women, making clear that the communication is being considered under the Commission procedure as well as under the 1503 procedure.

B. Receipt of communications: acknowledgement to the authors and forwarding to Governments

28. When a communication is processed under the 1503 procedure, the communication is forwarded to the Government concerned under cover of a standard note verbale which informs the Government that the communication is being dealt with in accordance with the applicable Council resolutions and which also requests that any reply from the Government be sent to the Office of the High Commissioner in time for it to be considered by the Working Group of the Subcommission. There is no mention of the possibility that the communication and any reply may also be considered under the communications procedure of the Commission on the Status of Women. The 1503 secretariat also informs the author of the communication that the communication will be sent to the authorities of the country concerned and that a summary will be confidentially submitted to the Working Group on Communications and the Commission on Human Rights, in accordance with Council resolution 2000/3 (previously, resolution 1503 (XLVIII)). There is no mention made of the fact that it may also be dealt with under the communications procedure of the Commission on the Status of Women.

29. When a communication is received directly by the Division for the Advancement of Women, the Division sends an acknowledgement to the author informing her or him that the communication will be dealt with in accordance with the relevant resolutions. A copy of the resolutions is also sent to the author. The author is also told that a copy of the communication will be sent to the Government without divulging the identity of the author (unless the author consents), and a summary will be forwarded to the Commission for review by its Working Group on Communications.

30. The Division also sends a copy of the communication to the Government concerned, under cover of a standard note verbale which informs the Government that the communication is being sent to it in accordance with the relevant Council resolutions and that a summary of the communication, together with any reply from the Government, will be included in the list of confidential communications to be considered by the Working Group on Communications of the Commission on the Status of Women. The Government

is requested to send to the Division any reply it wishes to be included by late November.

31. In the case of those communications that are not directly received by the Division but which the Division takes from the monthly 1503 lists, the Division does not inform the Government concerned that the communication is also being dealt with under the procedure of the Commission on the Status of Women. Thus, the Government does not receive a request to provide a reply in time for that reply to be included in the material that is submitted to the Commission. When the 1503 secretariat receives a reply to a communication which has been included in the Commission list, the 1503 secretariat sends that reply to the Division, which will then include that reply in the materials submitted to the Commission. A reply received after the November deadline is included in the list of communications if there is sufficient time for its translation; otherwise it will be included in the following year.

Issue

32. Concern has been expressed that Governments are not made aware that communications which are being dealt with under the 1503 procedure are also being dealt with under the Commission on the Status of Women communications procedure. In particular, this means that they may not be aware of the deadline for submitting replies to the Division for inclusion in the materials for the next session of the Commission on the Status of Women at which the communication concerning them will be considered.

Options

33. Two options are proposed:

(a) The problem could be avoided if the Division for the Advancement of Women informed each Government concerned that the communication was being dealt with not only under the 1503 procedure but also under the communications procedure of the Commission on the Status of Women, and set out the deadline for response;

(b) If the Commission on the Status of Women were to adopt the same communications cycle as the 1503 procedure (see below), then all of the governmental replies that had been received would be considered. However, this would not deal with the difficulty posed by the fact that Governments may not be aware that a communication concerning them is being considered by the Commission on the Status of Women. The only way to deal with this problem appears to be for the Division for the Advancement of Women directly to inform Governments that the 1503 communication is also being considered under the procedure for the Commission on the Status of Women.

C. Different annual cycles of the two procedures

34. The 1503 procedure and the procedure of the Commission on the Status of Women have different annual cycles. For communications to be included in the review by the Working Group of the Subcommission, they must normally have been received and processed by the 1503 secretariat by May, in order to meet the 12-week period mandated by Council resolution 2000/3, to permit time for Governments to respond. While some governmental responses are submitted during the year, there tends to be a deluge of responses close to the meeting time of the Working Group on Communications.

35. The cut-off date for processing communications for the meeting of the Commission on the Status of Women the following March is generally October of the preceding year for communications and November for governmental replies. In the case of communications received directly by the Division, the Government concerned has been informed of this deadline and will be in a position to respond to it. However, in the case of communications extracted from the 1503 monthly lists, the Governments concerned are aware of the deadline under the 1503 procedure but may not be aware of the earlier deadline of the Commission on the Status of Women, or even of the fact that the communication is before that Commission.

36. The fact that the 1503 procedure year and the procedure year of the Commission on the Status of Women do not coincide is the result of the different meeting times of the bodies that consider the communications. The consequences can be unfortunate in the case of communications that are being dealt with under both procedures. Because many replies to communications received between June and October (the cut-off date of the Commission on the Status of Women for receipt of communications for the coming March) may be received by the Office of the High

Commissioner after the Commission on the Status of Women meets in March, the Commission on the Status of Women may be considering many communications without the benefit of governmental replies. In addition, the dearth of responses may give an inaccurate impression of the wiliingness of Governments to cooperate with the Commission in the consideration of the communications.

Issue

37. The fact that the cycles of the two procedures do not coincide has meant that in some cases communications concerning particular Governments which have been extracted from 1503 lists are considered by the Commission on the Status of Women without the benefit of a governmental reply. This is because Governments, being unaware that the communication is also being considered by the Commission on the Status of Women, are understandably timing their replies to ensure that they are considered by the Working Group of the Subcommission in the middle of the year.

Options

38. Two possible options are:

(a) Synchronize the timetables of both procedures — this would mean that the Commission on the Status of Women would consider communications received nearly nine months before its session. If it chose to treat the communications it receives directly in a different way, there would be two time scales in operation. A further option might be to have the Working Group on Communications meet at much the same time as the Working Group of the Subcommission;

(b) A less significant change would have the Division for the Advancement of Women corresponding directly with Governments about the fact that the Commission on the Status of Women was also considering a communication concerning them which had come to them via the 1503 procedure.

D. Sharing of information between the 1503 secretariat and the Division for the Advancement of Women

39. Concern has been expressed about the practice adopted by the 1503 secretariat of sharing summaries and details of 1503 communications with the Division for the Advancement of Women, to be dealt with under the communications procedure of the Commission on the Status of Women. While both procedures are confidential, the composition of the two Commissions is not identical, and a question has been raised as to whether there is authorization for the information to be shared in this way or whether it involves a breach of the confidentiality mandated by the 1503 procedure.[15]

40. The question is not free from doubt. However, both procedures were first established by the Economic and Social Council in parallel resolutions at a time when the secretariat servicing both Commissions was part of the Division for Human Rights (a situation that existed until 1972). It can be argued that the Council contemplated that there would be sharing of information when it adopted resolution 1503 in 1970 and that the fact that the practice has been in operation since at least 1972 without any objections to it in any resolutions or decisions of either Commission or of Council suggests that the various Council resolutions establishing and amending the two procedures are correctly understood as permitting the dual use of communications.

41. Nevertheless, it must be admitted that the relationship between the various resolutions is not clear; indeed there was controversy in the 1970s over whether the procedure of the Commission on the Status of Women had been abolished. Accordingly, the Commission may wish to recommend that the Council take the opportunity to clarify matters as part of any changes it may make to the procedure of the Commission on the Status of Women.

IV. Further options for improving the procedure of the Commission on the Status of Women

42. The discussion above and the suggestions made to address the concerns that have been raised about the operation of the communications procedure of the Commission on the Status of Women and its

relationship to the 1503 procedure largely involve fine-tuning of the existing administrative and procedural arrangements. Thus, they do not involve a fundamental assessment of whether the procedure should be reformed in any fundamental way or even abolished and replaced by a more appropriate mechanism. The section below addresses the desirability of more fundamental reform and sets out a number of options the Commission may wish to consider. It revisits a number of the questions that were raised in the paper prepared for the Commission when it last reviewed the operation of the communications procedure.[16]

A. Effectiveness of the procedure

43. The critical question to address is whether the procedure of the Commission on the Status of Women is an effective way of achieving the goals for which it was adopted or whether it is serving other useful purposes and, if not, whether the existing procedure can be transformed into a mechanism that more effectively advances the human rights of women within the framework of the Commission's activities.

44. The 1991 report of the Secretary-General described the categories of communications that had been submitted to the Commission under the communications procedure as of that time. That description still accurately represents the types of communications received from individuals and groups[17] — namely:

(a) Allegations by individuals that they have been the victims of human rights violations;

(b) Allegations by individuals that other identified persons have been the victims of human rights violations;

(c) Allegations of a pattern of violations in a particular country;

(d) Identification of a problem facing women in several countries.

45. The Commission will recall that the primary goal of the communications procedure as set out in the relevant Council resolutions is not to provide an avenue for the redress of individual grievances or to provide a procedure for the investigation of alleged widespread violations in particular countries. Rather, by providing a channel by which information about alleged violations can come to the attention of the Commission formally, it was intended to provide an informational base that would assist the Commission in its task of policy formulation and development of strategies for the advancement of women.

46. While that is an extremely important goal, the question is whether the procedure currently performs a useful function in that regard. The 1991 review of the operation of the procedure, noting that the reports of the Working Group on Communications had been "brief and general",[18] stated that the contribution of the communications procedure to the policy formulation by the Commission and the Council had been relatively minor and confined to mainly one area (violence against women).[19] It also noted that the Commission had available to it a plethora of other sources of information on which to draw in its policy formulation.[20]

47. In recent years the reports of the Working Group on Communications have increased significantly in length, and they have dealt with a wider range of issues. However, in some cases matters dealt with in the Working Group may also have been dealt with in the public debate on and resolutions adopted by the Commission, and most of the information of a general nature that comes to the Commission under the communications procedure also comes to the attention of the Commission and other human rights bodies by other means.

48. A significant number of the cases that are received under the communications procedure involve individual grievances that would ideally be dealt with under an individual complaint procedure such as the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women or the First Optional Protocol to the International Covenant on Civil and Political Rights. However, these individual complaints reveal two things about the current communications procedure: first, that many members of the public assume that the procedure will do something to redress specific violations (a mistaken, if entirely understandable, expectation); and secondly, that the procedure fails to respond in any way to that assumption. The author is given no advice as to where she might seek assistance in pursuing her claim at the international level or in a national forum; she receives a bare acknowledgement of receipt of the communication and is provided with neither the Government's reply nor with a copy of the final report of the Working Group on Communications.

49. Thus, in summary, it seems difficult to maintain that the communications procedure at the current stage of the Commission's activities is providing a significant source of information that informs policy development or that it indirectly provides much by way of redress for alleged violations of women's human rights. The Commission may consider this an opportune time to undertake a fundamental review of the procedure.

B. Options

50. During its 1991 review of the communications procedure, the Commission had before it for its consideration a number of proposals for improving and supplementing the communications procedure. The options included the appointment of a thematic special rapporteur of the Commission with responsibility for a specific topic, such as violence against women, and the adoption of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women.[21] The former suggestion was realized in 1993 with the appointment by the Commission on Human Rights of the Special Rapporteur on violence against women, its causes and consequences; the latter came to fruition with the adoption of the Optional Protocol to the Convention by the General Assembly on 6 October 1999 and the entry into force of that instrument on 22 December 2000.

51. The final option outlined in that review was one that the Commission may wish to consider once again — namely, the transformation of the communications procedure into a "situations" procedure similar to the 1503 procedure. The point was made at that time that it was important to have a gender-specific mechanism in addition to the 1503 procedure, since there did not appear then to have been any case involving gender-specific violations that had been forwarded to the Commission on Human Rights under the 1503 procedure. That is still the case today.

52. However, there are other options open to the Commission if it wishes to transform and update its communications mechanism. Even in 1991, two developments were clear in the evolution of mechanisms for the protection of human rights in the United Nations system. The first was a move away from confidential procedures to more transparent procedures. This can be seen in the increasing trend of the Commission on Human Rights to appoint thematic and country-special rapporteurs and working groups, who report publicly to the Commission so that their reports are available to everyone and are openly debated at public meetings of the Commission.

53. The second trend is a move towards a greater use of independent experts as holders of office under these mechanisms. Both the 1503 procedure and the communications procedure of Commission on the Status of Women reflect the value of confidentiality which has receded in these new procedures, while only the procedure of the Commission on the Status of Women involves exclusively governmental representatives at all stages (unlike the 1503 procedure in which the independent experts of the Subcommission play a role at the initial stages, before situations are forwarded to the Commission and its Working Group).

54. There are thus a number of options the Commission may wish to consider:

(a) The transformation of the communications procedure into a "situations" mechanism, similar to the revised 1503 procedure but involving the existing Working Group on Communications of the Commission, and then the plenary Commission;

(b) Transformation of the communications procedure into a "situations" mechanism but establishing a working group of independent experts to carry out the preliminary review functions for the plenary Commission;

(c) The appointment of a special rapporteur of the Commission who would take over the function of the Working Group and report to the Commission on the communications received. This rapporteur could deal with complaints in the same way as the thematic special rapporteurs of the Commission on Human Rights do, by presenting an annual reporting with details of complaints, governmental responses, and general recommendations;

(d) The appointment of a thematic special rapporteur of the Commission whose primary task would be to collect information (including receiving communications) and prepare a detailed report on a particular topic which could then be used as a basis for further policy development by the Commission. The area of economic, social and cultural rights of women (or a specific sub-theme) could be chosen. (An example that might provide a model is the appointment

by the General Assembly of a Special Representative of the Secretary-General on Armed Conflict.)[22]

55. If any one of these options were adopted, further consideration would need to be given to coordination with existing mechanisms. For example, if a "situations" mechanism were adopted, consideration would need to be given to the adoption of admissibility criteria similar to those employed under the 1503 procedure and to whether it was appropriate to use material derived from 1503 lists for that procedure or whether direct submission of information was required. Similarly, communications in relation to a State that had accepted the inquiry procedure under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women might be more appropriately dealt with by the Committee on the Elimination of Discrimination against Women under that procedure. The Commission might wish to adopt a standard similar to the one contained in article 8 of the Optional Protocol for the triggering of an inquiry (the receipt of "reliable information indicating grave or systematic violations ... of rights set forth in the Convention"). In this regard the experience of the Committee against Torture, under article 20 of the Convention against Torture, the model for article 8 of the Optional Protocol, is likely to be of assistance in determining what constitutes "systematic violation".[23]

56. If a special rapporteur were appointed, it would be important to ensure that the mandate did not overlap unduly with existing mandates, and procedures would need to be adopted to ensure that communications that were more appropriately dealt with under one of the individual communications procedures were routed to that procedure.

Notes

[1] *Official Records of the Economic and Social Council, 2000, Supplement No. 7* (E/2000/27), chap. I.B, para. 2.

[2] "Report of the Working Group on Communications on the Status of Women", para. 20, in *Official Records of the Economic and Social Council, 2000, Supplement No. 7* (E/2000/27), chap. V, para. 52.

[3] See E/CN.6/1991/10.

[4] Ibid.

[5] Council resolution 1983/27, para. 4 (a).

[6] Ibid., para. 4 (b).

[7] Ibid., para. 5.

[8] Now the Subcommission on Promotion and Protection of Human Rights.

[9] Commission on Human Rights decision 2000/109.

[10] "Report of the inter-sessional open-ended Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights" (E/CN.4/2000/112), chap. 3.

[11] Council resolution 2000/3, para. 2.

[12] Ibid., para. 5.

[13] Ibid., para. 7 (d).

[14] These criteria are contained in Subcommission resolution 1 (XXIV).

[15] See Council resolution 1503 (XVLIII), para. 8, and Council resolution 2000/3, para. 9.

[16] E/CN.6/1991/10.

[17] Ibid., para. 13.

[18] Ibid., para. 22.

[19] Ibid., para. 24.

[20] Ibid., para. 31.

[21] Ibid., paras. 149-156.

[22] General Assembly resolution 51/77. For the report of the Special Representative at the conclusion of his three-year mandate, see A/52/442.

[23] "The Committee considers that torture is practised systematically when it is apparent that the torture cases reported have not occurred fortuitously in a particular place or at a particular time, but are seen to be habitual, widespread and deliberate in at least a considerable part of the territory of the country in question. Torture may in fact be of a systematic character without resulting from the direct intention of a Government. It may be the consequence of factors which the Government has difficulty in controlling, and its existence may indicate a discrepancy between policy as determined by the central Government and its implementation by the local administration. Inadequate legislation which in practice allows room for the use of torture may also add to the systematic nature of this practice." *Official Records of the General Assembly, 1996, Supplement No. 44* (A/51/44), para. 39.